



(4310-G1-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

DR.5A211.IA000414

Proposed Finding Against Acknowledgment of the Meherrin Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Proposed Finding.

SUMMARY: The Department of the Interior (Department) gives notice that the Assistant Secretary – Indian Affairs (AS-IA) proposes to determine that the petitioner known as the “Meherrin Indian Tribe” (MTB), Petitioner #119b, is not an Indian tribe within the meaning of Federal law. This notice is based on an investigation which determined that the petitioner does not satisfy criterion 83.7(e) as set forth in the applicable regulations, and therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: Comments on this proposed finding (PF) are due on or before [INSERT DATE 180 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. The petitioner then has a minimum of 60 days to respond to those comments. See the SUPPLEMENTAL INFORMATION section of this notice for more information about these dates.

ADDRESSES: Comments on the PF and requests for a copy of the summary evaluation which summarizes the evidence, reasoning, and analysis that are the basis for the PF should be addressed to the Office of Federal Acknowledgment, 1951 Constitution Avenue, N.W., MS 34B-

SIB, Washington, D.C. 20240. The Federal Register notice is also available through <http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm>. Interested or informed parties must send a copy of their comments to the petitioner at Meherrin Indian Tribe c/o Wayne Brown, P.O. Box 274, Ahoskie, NC 27910.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513-7650.

SUPPLEMENTARY INFORMATION: The Department publishes this notice in the exercise of authority that the Secretary of the Interior delegated to the Assistant Secretary – Indian Affairs (AS-IA) by 209 DM 8.

A Meherrin Indian Tribe organization formed in 1976 and obtained State recognition from North Carolina in 1986. In 1990, the group submitted to the AS-IA a letter of intent to petition for Federal acknowledgment as an Indian tribe. The Department received the letter of intent on August 2, 1990, and designated the group as Petitioner #119. A part of Petitioner #119 submitted a separate letter of intent and partial petition documentation that the Department received on June 27, 1995. The Department designated the original petitioner as #119a and the subsequent petitioner as #119b. This PF evaluates Petitioner #119b (MTB).

Petitioner #119b initially claimed to constitute the descendants of Sallie M. (Smith) Lewis (b.ca.1844-d.1904) of Hertford County, NC. The petitioner identified her as “the last full-blooded Meherrin Indian” or “Susquehanna” Indian who migrated as an adult from Pennsylvania to North Carolina. The petitioner’s 2011 submission of petition documentation identified a 1994 master’s thesis as its official history. The thesis does not describe the modern-day members as descendants of Sallie M. (Smith) Lewis but as descendants of the Iroquois-speaking historical Meherrin Indian tribe that, it claims, in the mid-1700s left its reservation adjoining the Meherrin

and Chowan Rivers in what is now Hertford County, NC, and continued to reside nearby on Potecasi Creek.

For the purposes of this PF, the historical Indian tribe is the Meherrin Indian tribe that was last identified in North Carolina about 1763. The Assistant Secretary has directed that, if an Indian tribe existed in 1789, the petitioner needs to demonstrate its “continuous tribal existence” from such a historical Indian tribe only for the period since 1789 (AS-IA 5/23/2008). The evidence in the petition record, however, does not demonstrate that the Meherrin Indian tribe, or a group that evolved from it, existed in 1789. In response to this PF, the petitioner may submit evidence to show it has evolved as a group from the Meherrin Indian tribe whose existence was last noted about 1763. Alternatively, the petitioner may provide evidence that a historical Meherrin Indian tribe, or another historical Indian tribe, existed in 1789, and that since 1789 the petitioner has continued the existence of that historical Indian tribe or has evolved as a group from that historical Indian tribe.

The Department conducted a technical assistance review of the partial petition and issued Petitioner #119b a letter on March 15, 1996, describing the petition’s lack of evidence under all seven of the mandatory criteria. The petitioner provided additional petition documentation on August 22, 1997. The OFA advised the MTB that its continued lack of evidence demonstrating descent from the historical tribe—required under criterion 83.7(e)—meant that the Department could proceed to conduct an expedited review under 83.10(e) that would result in a finding against Federal acknowledgment. However, since the MTB governing body advised that its petition was complete, the Department placed Petitioner #119b on the “ready, waiting for active consideration” list on October 6, 1997. An OFA genealogist made a field visit in February 1998.

The OFA conducted informal technical assistance with MTB representatives in Washington, DC, in February 2008. The Department placed the MTB petitioner on active consideration on November 1, 2010. The AS-IA's March 31, 2005, guidance directive provides for a 60-day period after notification that a petitioner will be placed on active consideration during which a petitioner may update and supplement its documented petition. The MTB petitioner submitted additional petition documentation within the extended 60-day period, which ended February 14, 2011. On June 21, 2013, the AS-IA announced a "preliminary discussion draft of potential revisions to Part 83." By letter dated May 31, 2013, the Department provided the petitioner the option to request a suspension of consideration of its petition during the process of revising the regulations or to continue under the existing Part 83 regulations. By letter dated July 13, 2013, received at OFA on July 22, Petitioner #119b requested to proceed with a FD under the existing regulations.

The acknowledgment process is based on the regulations at 25 CFR part 83. Under these regulations, the petitioner has the burden to present evidence that it meets the mandatory criteria in section 83.7. Petitioner #119b does not meet criterion 83.7(e), which requires that the petitioner's members descend from a historical Indian tribe or tribes that combined and functioned as a single autonomous political entity. Pursuant to guidance issued in 2008, the proposed finding is issued on the basis of Petitioner's failure to satisfy 83.7(e). See 73 Fed. Reg. 30146, 30148 (May 23, 2008). If following an evaluation of the evidence and argument submitted during the comment period it is determined that the petitioner meets the criterion, then the Assistant Secretary will issue an amended proposed finding evaluating all seven criteria.

The petitioner submitted a membership list, separately certified by its governing body in February 2011, identifying 203 adult and minor members. As required under criterion 83.7(e),

the membership list furnished each member's full name (including maiden name), date of birth, and residential address, with minor omissions. The current members represent part of the larger group to which North Carolina provided recognition as a tribe in 1986. The evidence does not demonstrate that Sallie M. (Smith) Lewis or the historical landowners allegedly near Potecasi Creek were Indian, Meherrin Indian, or members of a Meherrin Indian or other Indian tribe. The petitioner has not documented, nor has the OFA identified, a historical Indian tribe, or tribes that combined, from which its members descend. The petitioner also has not provided sufficient evidence to verify descent from those individuals it asserted were Meherrin. The evidence in the record does not demonstrate that any of the petitioner's members descend from a historical Indian tribe. Therefore, the petitioner does not meet the requirements of criterion 83.7(e).

Based on this preliminary factual determination, the Department proposes not to extend Federal acknowledgment as an Indian tribe to Petitioner #119b known as the Meherrin Indian Tribe. A report summarizing the evidence, reasoning, and analyses that are the basis for the PF will be provided to the petitioner and interested parties, and is available to other parties upon written request as provided by 25 CFR 83.10(h). Requests for a copy of the summary evaluation should be addressed to the Federal Government as instructed in the ADDRESSES section of this notice. The summary evaluation and the Federal Register notice are also available through <http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm>.

Publication of this notice of the PF in the Federal Register initiates a 180-day comment period during which the petitioner and interested and informed parties may submit arguments and evidence to support or rebut the evidence relied upon in the PF. Comments on the PF should be addressed to both the petitioner and the Federal Government as required by 25 CFR 83.10(i) and as instructed in the ADDRESSES section of this notice by the date listed in the DATES section of this notice.

Commenters should be aware that personal identifying information in their comments—such as address, telephone number, or e-mail address—may be made publicly available at any time. Commenters may request that the Department withhold any personal identifying information from public review, but the Department cannot guarantee that it can do so.

During the comment period, the Meherrin petitioner and the interested parties may request in writing that the AS-IA hold a formal, on-the-record technical assistance meeting as provided by the acknowledgment regulations at 25 CFR 83.10(j)(2). Such requests must include a proposed agenda of topics and must be received by the Department within 60 calendar days of the publication of this Federal Register notice.

The regulations, 25 CFR 83.10(k), provide the petitioner a minimum of 60 days to respond to any submissions on the PF received from interested and informed parties during the comment period. After the expiration of the comment and response periods described above, the Department will consult with the petitioner concerning establishment of a schedule for preparation of the final determination (FD). The AS-IA will publish the FD of the petitioner's status in the Federal Register as provided in 25 CFR 83.10(l), at a time that is consistent with that schedule.

Dated: January 16, 2014.

Kevin K. Washburn
Assistant Secretary – Indian Affairs

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